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20 Counsel for USACM Liquidating Trust

21 **UNITED STATES BANKRUPTCY COURT**
22 **DISTRICT OF NEVADA**

23 In re:

24 USA COMMERCIAL MORTGAGE
25 COMPANY,

26 USA CAPITAL REALTY ADVISORS,
27 LLC,

28 USA CAPITAL DIVERSIFIED TRUST
29 DEED FUND, LLC,

30 USA CAPITAL FIRST TRUST DEED
31 FUND, LLC,

32 USA SECURITIES, LLC, Debtors.

33 **Affects:**

- 34 All Debtors
35 USA Commercial Mortgage Company
36 USA Capital Realty Advisors, LLC
37 USA Capital Diversified Trust Deed Fund, LLC
38 USA Capital First Trust Deed Fund, LLC
39 USA Securities, LLC

40 Case No. BK-S-06-10725-LBR
41 Case No. BK-S-06-10726-LBR
42 Case No. BK-S-06-10727-LBR
43 Case No. BK-S-06-10728-LBR
44 Case No. BK-S-06-10729-LBR

45 **CHAPTER 11**

46 Jointly Administered Under Case No.
47 BK-S-06-10725 LBR

48 **MOTION FOR ORDER REQUIRING**
49 **TRACY SUTTLES TO APPEAR FOR**
50 **EXAMINATION PURSUANT TO**
51 **FEDERAL RULE OF**
52 **BANKRUPTCY PROCEDURE 2004**

53 [No hearing required]

54 Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating
55 Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Tracy
56 Suttles ("Suttles") to appear, as set forth in the subpoena to be issued under Federal Rule
57 of Bankruptcy Procedure 9016, to appear for examination at the office of Diamond

McCarthy LLP, 909 Fannin, Suite 1500, Houston, TX 77010, on a business day no earlier than ten (10) business days after the filing of this Motion and no later than June 30, 2007 (or at such other mutually agreeable location, date, and time) and continuing from day to day thereafter until completed.

This Motion is further explained in the following Memorandum.

Memorandum

The Movant seeks information concerning various transactions and other dealings between USACM, the other debtors in the above-captioned cases (together with USACM, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise related entities. The Movant seeks this information to assist in the collection of the assets and the investigation of the liabilities of the Debtors.

The requested discovery from Suttles is well within the scope of examination permitted under Bankruptcy Rule 2004, which includes:

[t]he acts, conduct, or property or . . . the liabilities and financial condition of the debtor, or ... any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a . . . reorganization case under chapter 11 of the Code, . . . the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.

Conclusion

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

¹ FED.R. BANKR. P. 2004(b).

1 Dated: May 8, 2007.

2 **DIAMOND MCCARTHY LLP**

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4
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21 *Counsel for USACM Liquidating Trust*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a true and correct copy of the foregoing Motion has been
3 served on May 8, 2007, by United States Mail, first class, postage prepaid and properly
4 addressed to Tracy Suttles at the following address:
5

6 Tracy Suttles
7 3 Willowick Circle
8 Houston, TX 77024-7524

9 Tracy Suttles
10 1300 Post Oak Blvd., Suite 1875
11 Houston, TX 77056

12 _____
13 /s/ *Eric D. Madden*
14 Eric D. Madden